

PUBLIC CHAPTER NO. 366

SENATE BILL NO. 935

By Henry, Woodson, Black, Johnson, Stanley, Marrero, Raymond Finney

Substituted for: House Bill No. 806

By Odom, Tindell, Gilmore, McManus

AN ACT to amend Tennessee Code Annotated, Title 63, relative to the "Genetic Counselors' Licensing Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, is amended by adding the following as a new part thereto:

Section 63-6-____. This chapter shall be known and may be cited as the "Genetic Counselors' Licensing Act".

Section 63-6-____. As used in this chapter, unless the context otherwise requires:

(1) "ABGC" means the American Board of Genetic Counseling;

(2) "ABMG" means the American Board of Medical Genetics;

(3) "Board" means the board of medical examiners, created by Section 63-6-101;

(4) "CEU" means a continuing education unit as defined by the ABGC;

(5) "Department" means the Department of Health;

(6) "Division" means the division of health related boards within the department;

(7) "Genetic counselor" means a person licensed under this chapter to engage in the practice of genetic counseling;

(8) "Practice of genetic counseling" means the process of helping people understand and adapt to the medical, psychological and familial implications of genetic contributions to disease performed pursuant to a referral. This process integrates the following:

(A) Interpretation of family and medical histories to assess the chance of disease occurrence or recurrence;

(B) Education about inheritance, testing, management, prevention, resources and research; and

(C) Counseling to promote informed choices and adaptation to the risk or condition;

(9) "Referral" means a written or telecommunicated authorization for genetic counseling services from a physician licensed to practice medicine in all its branches or an advanced practice nurse or physician assistant who has an agreement and signed protocols with a supervising physician that authorizes referrals to a genetic counselor; and

(10) "Supervision" means the ongoing, direct clinical review, for the purposes of training or teaching, by an approved supervisor who monitors the performance or a person's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the person supervised. Supervision may include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

Section 63-6-____. (a) Genetic counseling is a communication process, conducted by one (1) or more appropriately trained individuals, that includes:

(1) Estimating the likelihood of occurrence or recurrence of any potentially inherited or genetically influenced condition. This assessment may involve:

(A) Obtaining and analyzing a complete health history of the person and family;

(B) Reviewing pertinent medical records;

(C) Evaluating the risks from exposure to possible mutagens or teratogens; and

(D) Recommending genetic testing or other evaluations to assist in the diagnosis of a condition or determine the carrier status of one (1) or more family members.

(2) Helping the individual, family, health care provider or public:

(A) Appreciate the medical, psychological and social implications of a disorder, including its features, variability, usual course and management options;

(B) Learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;

(C) Understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition;

(D) Select the most appropriate, accurate, and cost-effective methods of diagnosis; and

(E) Understand genetic tests, including, but not limited to, diagnostic genetic tests, screening tests, or predispositional genetic tests, coordinate testing for inherited disorders, and interpret complex genetic test results.

(3) Facilitating an individual's or family's:

(A) Exploration of the perception of risk and burden associated with a genetic disorder;

(B) Decision-making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, culture and ethical/moral views; and

(C) Adjustment and adaptation to the condition or their genetic risk by addressing needs for psychological, social and medical support.

Section 63-6-____. (a) No person shall engage in the practice of genetic counseling, act or represent such person to be a genetic counselor, or to use such titles as "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic associate" or any words, letters, abbreviations or insignia indicating or implying that such person is a genetic counselor, unless such person holds a license or temporary license and otherwise complies with the provisions of this chapter and the rules and regulations adopted by the board.

(b) The following persons may engage in the practice of genetic counseling subject to the stated circumstances and limitations without being licensed under this chapter:

(1) Other qualified and licensed health care professionals who are practicing within their scope of practice. Individuals may not use the title genetic counselor or any other title tending to

indicate they are a genetic counselor unless licensed as such in this state.

(2) Students enrolled in an approved academic program in genetic counseling, if practice constitutes a part of a supervised course of study and such student is designated by a title clearly indicating such student's status as a student or trainee.

(3) An individual trained as a genetic counselor, who is reapplying for the ABGC certification examination and gathering logbook cases under supervision in an approved genetic counseling training site.

(4) Individuals employed by a state genetics center to provide education regarding single gene conditions, including, but not limited to, sickle cell, cystic fibrosis, and hemoglobinopathies. The individual may not use the title genetic counselor or any other title tending to indicate they are a genetic counselor unless licensed as such in this state.

(5) Visiting ABGC or ABMG certified genetic counselors from outside the state performing activities and services for a period of thirty (30) days each year. Visiting genetic counselors must be licensed if available in their home state.

Section 63-6-____. (a) All licensees shall comply with the current code of ethics adopted by the National Society of Genetic Counselors, except to the extent that it conflicts with the laws of the State of Tennessee or the rules of the board. If the code of ethics conflicts with state law or rules, state law or rules govern the matter. A violation of the code of ethics or state law or rules may subject a licensee to disciplinary action.

(b) Each applicant or licensee is responsible for being familiar with and following the code of ethics.

(c) A copy of the code of ethics may be obtained by writing the National Society of Genetic Counselors, 401 N. Michigan Avenue, Chicago, IL 60611 or by visiting the website www.nsgc.org.

Section 63-6-____. (a) The board shall promulgate, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, all rules and regulations that are reasonably necessary to regulate advertising and for the performance of the various duties imposed upon the board for the proper administration of this chapter;

(b) No person shall represent to be or function as a genetic counselor under the provisions of this part, unless such person holds a valid genetic counselor license or temporary license issued by the board. The board shall establish the qualifications that are prerequisite to issuance of licenses and temporary licenses provided that:

(1) To qualify for a license to practice genetic counseling, a person shall have:

(A) Earned a masters degree from a genetic counseling training program that is accredited by the ABGC, or an equivalent as determined by the ABGC or the ABMG; and

(B) Met the examination requirement for certification and have current certification as a genetic counselor by the ABGC or the ABMG;

(2) For one (1) year after the effective date of the rules adopted under this act, a license may be issued, at the discretion of the board, to an applicant not meeting the requirements of subdivision (1)(B) if the applicant has practiced as a genetic counselor since 1980 and the committee has completed an investigation of the applicant's work history. The investigation may include, but is not limited to, completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

(3) A temporary license to practice genetic counseling may be issued to an applicant who meets all of the requirements for licensure except the examination requirement of subdivision (1)(B).

(A) Temporary license applicants must have active candidate status conferred by ABGC and take the next available certification examination.

(B) A temporary license will not be issued if the applicant has failed the ABGC certification examination more than twice.

(C) Temporary licensees must practice under the general supervision of a licensed genetic counselor or a licensed physician with current ABMG certification in clinical genetics.

(D) A temporary license shall expire upon the earliest of one (1) of the following:

(i) Issuance of full licensure;

(ii) Ninety (90) days after notification of failing the certification exam without obtaining current active candidate status; or

(iii) The date printed on the temporary license.

(c) The board shall set fees, after consultation with the department, relative to the application, licensing and renewal thereof in amounts sufficient to pay all of the expenses of the board that are directly attributable to the performance of its duties pursuant to the provisions of this chapter, including, but not limited to, the following fees:

- (1) Application, licensure and temporary licensure fee;
- (2) Renewal fee;
- (3) Late renewal fee;
- (4) Continuing education course approval fee; and
- (5) Duplicate licensure fee.

(d) The board shall review and approve or reject the qualifications of applicants for licensure and to issue all approved full, restricted, conditioned or temporary licenses.

(e) The board shall biennially review and approve or reject the qualifications of each applicant for biennial licensure renewal. The board shall require the receipt of evidence satisfactory to the board of the applicant's successful completion, within a two-year period prior to the application for license renewal, of five (5) CEUs (category 1 or 2) or fifty (50) contact hours approved for recertification purposes by the ABGC. A licensee shall be responsible for maintaining competent records of having completed qualified professional education for a period of four (4) years after close of the two-year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to having completed a qualified professional education to demonstrate it meets the requirements under this section. The board may, at its discretion, waive or modify the continuing education requirement in cases of retirement, illness, disability or other undue hardship.

(f) The board shall collect or receive all fees, fines and money owed pursuant to the provisions of this chapter and shall pay the same into the general fund of the state. For purposes of implementing subsection (c), all fees, fines or moneys collected pursuant to the regulation of genetic counselors shall so be designated.

Section 63-6-____. (a) The board shall have the power to:

- (1) Deny, restrict or condition a license;
- (2) Permanently or temporarily withhold issuance of a license;
- (3) Suspend, limit or restrict a previously issued license, for such time and in such manner as the board may determine;

(4) Reprimand, suspend, revoke or take such other disciplinary action in relation to an applicant or license holder as the board, in its discretion, may deem proper; or

(5) Permanently revoke a license.

(b) The grounds upon which the board shall exercise such power shall include, but are not limited to, circumstances in which the person:

(1) Is guilty of fraud or deceit in the procurement or holding of the license;

(2) Has been convicted of a felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license discharged or acquitted, or if the holder has been pardoned with full restoration of civil rights, in which case the license shall be restored;

(3) Is or has been physically or mentally incapable of practicing at a level of competency that protects the public health safety and welfare;

(4) Has knowingly aided and abetted a person who is not a license holder, or is not otherwise authorized pursuant to this chapter, to perform the duties of a license holder under this chapter;

(5) Has undertaken or engaged in any practice beyond the scope of practice stated in Section 63-6-____;

(6) Has impersonated a license holder or former license holder or is under an assumed name performing the duties authorized to be performed only by a licensed person;

(7) Has been found guilty of a violation of the code of ethics as provided in Section 63-6-____;

(8) Is or has been found guilty of incompetence or negligence in performance as a license holder;

(9) Has been found guilty of unethical conduct;

(10) Violates, or attempts to violate, directly or indirectly, or assists or aids in the violation of, or conspires to violate, any provision of this chapter or any lawful order of the board issued pursuant to this chapter, or any of the rules or regulations promulgated pursuant to this chapter, or any criminal statute of the state;

(11) Is habitually intoxicated, or engages in personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances or other drugs or stimulants in such manner as to adversely affect the person's ability to practice; or

(12) Has received disciplinary action from another state for any acts or omissions that would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order, or other equivalent document memorializing the disciplinary action from the disciplining state shall constitute prima facie evidence of violation of this section and shall be sufficient grounds upon which to deny, restrict or condition licensure or renewal or to discipline a person licensed in this state.

Section 63-6-____. Any person who has been issued a license to practice under this part and who wishes to retire such license shall file with the board an affidavit, on a form to be furnished by the board, stating the date on which the person retired from practice and any other information deemed necessary by the board. If such person decides to reengage in practice in this state, such person shall apply for licensure as provided by this part and shall not be liable for licensure renewal fees that accrued during the period of retirement.

SECTION 2. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: May 24, 2007


RON RAMSEY
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 7th day of June 2007



PHIL BREDESEN, GOVERNOR